

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1879 – SB 2044

March 16, 2014

SUMMARY OF ORIGINAL BILL: Creates a cause of action against governmental agencies that seize property used in criminal acts if no forfeiture warrant is issued due to a lack of probable cause.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – The proposed legislation may result in increased state and local expenditures from defending against additional lawsuits that could be brought under the proposed legislation. The proposed legislation may also result in decreased state and local revenues because law enforcement officers will be hesitant to seize property for fear of subjecting their agency to a lawsuit. While there could be a fiscal impact the state and local governments, there is insufficient data to estimate the number and complexity of the lawsuits or the reduction in seizures that would result from the proposed legislation; therefore, the fiscal impact is not quantifiable.

SUMMARY OF AMENDMENT (014373): Adds a provision allowing one to recover interest at the current prime interest rate, compounded annually, if the property seized was cash or a cash equivalent.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to the Department of Safety, the department's criminal interdiction team engaged in 814 seizures in 2013. The department assumes that the proposed legislation would not only result in an increase in lawsuits against the department, but also reduce state revenues realized from the public sale of seized property.
- Under the proposed legislation, an officer, acting in good faith, who seizes property with the belief that there was probable cause to seize the property would nonetheless subject the department to a lawsuit if a judge does not issue a forfeiture warrant because of a lack of probable cause. The department assumes that law enforcement officers will be hesitant to seize property for fear of subjecting their law enforcement agency to a lawsuit.

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- Other law enforcement agencies seize property, including local law enforcement agencies, the Tennessee Bureau of Investigation, the Tennessee Wildlife Resources Agency, and other agencies.
- It is assumed that the proposed legislation will result in increased state and local expenditures as well as reduced state and local revenues.
- There is insufficient data to estimate the number and complexity of the lawsuits that will be brought under the proposed legislation. Further, there is insufficient information to estimate the reduction in seizures that would result from the proposed legislation.
- Due to these unknown factors, the fiscal impact is not quantifiable.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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